



**DELBERT HOSEMAN**  
*Secretary of State*

**Mississippi Preneed Cemetery and  
Funeral Registration Act Rules**

**Title 1: Secretary of State**

**Part 12: Regulation and Enforcement – Preneed Funeral Service and Mdse. and Perpetual  
Care Cemeteries Regulation**

**Subpart: 1: Mississippi Preneed Cemetery and Funeral Registration Act Rules**

*Repeal of Prior Rules.* Upon their effective date, these rules and regulations supersede and repeal all previous rules and regulations promulgated under the Preneed Cemetery and Funeral Registration Act.

**Part 12 Chapter 1: Definitions**

*Rule 1.1 Act.* As used herein, all references to “Act” or “the Act” shall mean the “Preneed Cemetery and Funeral Registration Act” and any amendments thereto.

Source: *Miss. Code Ann.* § 75-63-67 (Rev. 2009).

*Rule 1.2 Contract Beneficiary.* As used herein, all reference to “Contract Beneficiary” shall mean the person upon whose death will initiate the performance of a preneed contract.

Source: *Miss. Code Ann.* § 75-63-67 (Rev. 2009).

*Rule 1.3 Division.* As used herein, all references to “Division” or “the Division” shall mean the Regulation and Enforcement Division of the Mississippi Secretary of State’s Office.

Source: *Miss. Code Ann.* § 75-63-67 (Rev. 2009).

*Rule 1.4 Establishment.* As used herein, all references to “Establishment” or “Preneed Establishment” or “Registered Establishment” shall mean the funeral home, cemetery, or other providers of preneed merchandise and/or services that sell and shall be required to perform a preneed contract.

Source: *Miss. Code Ann.* § 75-63-67 (Rev. 2009).

*Rule 1.5 Rules.* As used herein, all references to “Rules” or “these Rules” shall mean the “Mississippi Preneed Cemetery and Funeral Registration Act Rules.”

Source: *Miss. Code Ann.* § 75-63-67 (Rev. 2009).

*Rule 1.6 Secretary of State.* As used herein, all references to “the Secretary of State” or “Secretary of State” shall mean the Mississippi Secretary of State.

Source: *Miss. Code Ann.* § 75-63-67 (Rev. 2009).

## **Part 12 Chapter 2: Registration**

*Rule 2.1 Establishment Registration.* Any establishment or organization which engages in the business of selling preneed merchandise and/or services shall register with the Secretary of State by filing a completed Preneed Establishment and/or Agent Registration Form (Form 10PN001) with the Division. The form shall be marked in the space designated “Initial Registration” and shall be accompanied by a registration fee of Two Hundred Fifty Dollars (\$250). All registrations expire on March 31<sup>st</sup> of each year and must be renewed.

Source: *Miss. Code Ann.* § 75-63-67 (Rev. 2009).

*Rule 2.2 Agent Registration.* Any person who engages in the business of selling preneed contracts shall register with the Secretary of State by filing a Form 10PN001 with sections A, D, and E completed. All agent applications must be sponsored by a registered establishment.

Source: *Miss. Code Ann.* § 75-63-67 (Rev. 2009).

*Rule 2.3 Annual Report Filing.* Every registered establishment shall annually submit a written report to the Secretary of State of its preneed contract sales and performance of such contracts. This report shall be filed with the Secretary of State on or before March 31<sup>st</sup> of each year for the calendar year ending the preceding December 31<sup>st</sup>. Annual reports shall be submitted to the Secretary of State on Form 10PN001 that is marked in the space designated “Renewal Registration & Annual Report.” A Fifty Dollar (\$50) fee shall also accompany the filing and shall be made payable to the Mississippi Secretary of State's Office.

Source: *Miss. Code Ann.* § 75-63-67 (Rev. 2009).

*Rule 2.4 Trustee Annual Report Filing.* Every trustee for a preneed funeral and/or cemetery services and merchandise trust shall annually submit a written report to the Secretary of State containing the trust activity for the previous ending calendar year. This report shall be filed on or before March 31<sup>st</sup> of each year for the calendar year ending the preceding December 31<sup>st</sup>. Trustee Annual Reports shall be submitted on the Annual Trustee Report Form and marked in the space designated “Preneed Funeral/Cemetery Services & Merch. Trust.” No fee shall be submitted with this report.

Source: *Miss. Code Ann.* § 75-63-67 (Rev. 2009).

*Rule 2.5 Change in Establishment or Agent Information.* Any changes in the information provided by the establishment or agent in a registration shall be supplied to the Secretary of State in writing by completing the appropriate sections of Form 10PN001. Notice shall be supplied to the Secretary of State within thirty (30) days after such change has occurred.

Source: *Miss. Code Ann.* § 75-63-67 (Rev. 2009).

*Rule 2.6 Change in Ownership or Control.*

- A. The seller shall apply for change of ownership or control when:
  - 1) The seller transfers all or a portion of the interest in any contract for prepaid funeral merchandise and services;
  - 2) The seller transfers one or more of its establishments for providing funeral merchandise or services;
  - 3) All or a portion of the equity ownership of a seller has been transferred that will result in a change of:
    - a. The sale of more than fifty percent (50%) of the interest of a seller when the seller is a corporation;
    - b. Ownership of a seller when the seller is other than a corporation;
  - 4) The seller transfers all of its business assets relating to providing funeral merchandise or services; or
  - 5) The seller terminates its business of providing funeral merchandise or services.
- B. At least fifteen (15) days before the proposed occurrence of an event described in subsection A of this rule, the seller shall file a verified change of ownership application with the Division, which shall contain the following:
  - 1) The name and address of the seller;
  - 2) The name and address of the organization proposing to acquire property of the seller, hereinafter referred to as the “transferee”;
  - 3) A description of the property and of the proposed transaction, as set forth in subsection A of this section;
  - 4) An accounting of the trust fund and all outstanding contracts, which accounting shall contain all the information required in the annual report, prepared as of a date within thirty (30) days of the required application filing date above;
  - 5) Any required documents or amendments thereto relating to the trust fund;
  - 6) A copy of any notice proposed to be sent to the contract buyers after the transfer;
  - 7) A filing fee of One Hundred Dollars (\$100.00); and
  - 8) Any other information that may reasonably be required by the Division by rule or order.
- C. The Division must approve the change in ownership or control. The Division shall approve the seller’s application for change of ownership by written authorization if:
  - 1) The transferee set forth in the application holds a valid, current registration under the provisions of this article;
  - 2) The accounting required is complete, accurate, and reflects the trust fund whole and intact; and

- 3) All required information and documents are filed with and approved by the Division
- D. The Division shall have the authority by rule or order to waive or reduce any of the requirements contained in subsection B of this rule as not being necessary or appropriate in the public interest or for the protection of the contract beneficiaries.
- E. The seller, or its interest therein, shall remain liable for all funds and transactions to the effective date of the transfer. The buyer shall be liable for all funds and transactions thereafter.
- F. Any shortages in the trust fund due to the failure to properly capitalize the trust in accordance with Section 75-63-59 shall be funded by the preneed seller or new owner before closing. Nothing provided in this section shall alleviate or excuse the purchaser from exercising due diligence in the transaction before closing.

Source: *Miss. Code Ann. § 75-63-67 and 77 (Rev. 2009).*

*Rule 2.7 Change in Trustee or Trust Institution.* In the event of any change in the investment composition of the assets of a preneed trust reflecting a redistribution of Twenty-Five percent (25%) or more of trust assets or a change in the trustee or trust institution, the Secretary of State shall be notified in writing no less than thirty (30) days after the time of such change occurs.

Source: *Miss. Code Ann. § 75-63-67 (Rev. 2009).*

*Rule 2.7 Termination of Agents.* Establishments shall notify the Secretary of State in writing within thirty (30) days after an agent has ceased employment with that establishment.

Source: *Miss. Code Ann. § 75-63-67 (Rev. 2009).*

*Rule 2.9 Notarization.* All registration forms and annual reports must be notarized.

Source: *Miss. Code Ann. § 75-63-67 (Rev. 2009).*

*Rule 2.10 Certificate.* An establishment and/or agent shall not be considered registered under the Act until the establishment and/or agent receives a certificate from the Division stating that it has satisfied the registration requirements of the Act and these Rules.

Source: *Miss. Code Ann. § 75-63-67 (Rev. 2009).*

*Rule 2.11 Filing Dates.* Any filing required by the Act or these Rules to be filed with the Division is considered timely filed by reference to the postmark when filed with the appropriate forms, filing fee, and all other documents required by the Act or these Rules.

Source: *Miss. Code Ann. § 75-63-67 (Rev. 2009).*

*Rule 2.12 Deficient Filings.* Any filing made pursuant to the Act or these Rules may be deemed deficient if any of the following exist:

- A. The application is not on the proper form;
- B. The application is not in compliance with the Act or these Rules;

- C. The application is incomplete;
- D. The application is not signed and notarized; and/or
- E. The associated fee is not submitted.

When a registration application or filing is found to be deficient, the Division may send a deficiency letter stating the grounds for noncompliance. If following the transmission of a deficiency letter, no communication is received by the Division for a period of thirty (30) days, the application or filing will be deemed abandoned and returned to the applicant.

Source: *Miss. Code Ann.* § 75-63-67 (Rev. 2009).

**Rule 2.13 Addresses.** If you are mailing anything to the Division **that contains payment of fees or penalties**, please mail to this address:

Secretary of State  
Regulation and Enforcement Division  
Post Office Box 1020  
Jackson, MS 39215-1020

For any other correspondence, please mail to this address:

Secretary of State  
Regulation and Enforcement Division  
Post Office Box 136  
Jackson, Mississippi 39205

The physical address is:

Secretary of State  
Regulation and Enforcement Division  
700 North Street  
Jackson, Mississippi 39202.

Source: *Miss. Code Ann.* § 75-63-67 (Rev. 2009).

## **Part 12 Chapter 3: Contracts**

**Rule 3.1 Contract Forms.** All preneed contracts sold shall be evidenced in writing on forms approved by and on file with the Secretary of State. No contract form can be used unless approved by the Division. Said contract forms must be accompanied by all documents required by the Act and these Rules to be provided to a contract beneficiary.

All preneed contract forms filed with the Secretary of State shall be reviewed in order to ensure compliance with the Act and these Rules. If the contract meets all of the requirements of the Act and these Rules then it shall be marked “Accepted” and a copy shall be returned to the preneed establishment. If the contract fails to meet the requirements of the Act and these Rules, it shall

be marked “Rejected” and it shall be returned to the preneed establishment along with the reasons for rejection.

It is the Establishment’s responsibility to obtain approval of a contract form that complies with requirements of the current Act and the current Rules. Outdated contract forms, even if previously approved by the Division, cannot be used if contract language is in conflict with the current Act and the current Rules.

Source: *Miss. Code Ann.* § 75-63-67 (Rev. 2009).

*Rule 3.2 Complaints.* All preneed contracts shall contain the following clause: “Consumer complaints may be filed with the Secretary of State by calling (601) 359-9055 or in writing at Post Office Box 136, Jackson, MS 39205.”

Source: *Miss. Code Ann.* § 75-63-67 (Rev. 2009).

*Rule 3.3 Certain Terms in Bold Type.* The following terms of a preneed contract that is funded by trust shall be in bold face type:

- A. The percentage of funds the seller is required to trust
- B. The name of the trust officer; and
- C. The name, address, and phone number of the trust institution.

These terms must also be set forth in a separate space on the contract and initialed by the contract beneficiary.

Source: *Miss. Code Ann.* § 75-63-67 (Rev. 2009).

*Rule 3.4 Contract Portability.* If, for any reason, the original contract provider does not service the final needs of the contract beneficiary, no less than the amount remitted to trust on behalf of the beneficiary shall be paid to the substitute provider; the estate of the deceased; or the person or persons who have signed an at-need contract with the substitute provider. Such payment shall be made within ten (10) days by the original provider’s trustee upon receipt of documentation of death and documentation of the substitute provider’s services and merchandise furnished to the deceased.

If, for any reason, the original contract provider does not service the final needs of the contract insured with no change in the policy beneficiary designation, the original contract provider shall pay all policy proceeds to the substitute provider; the estate of the deceased; or the person or persons who have signed an at-need contract with the substitute provider within ten (10) days of the receipt of policy proceeds.

Furthermore, all preneed contracts sold in Mississippi must contain the portability language stated above before the contract can be approved and used in this State.

Source: *Miss. Code Ann.* § 75-63-67 (Rev. 2009).

*Rule 3.5 Merchandise Description Specificity.* All preneed contracts must provide a sufficient, detailed description of funeral or cemetery services purchased as well as the make, model, and quality of the merchandise covered by the contract. No contract form will be approved for use if the format does not capture specific information regarding the consumer's purchase.

Source: *Miss. Code Ann. § 75-63-67* (Rev. 2009).

*Rule 3.6 Retention of Documents.* The preneed establishment or its successor shall maintain a copy of all preneed contracts entered into by the establishment for a period of the lifetime of each contract and for two (2) years after the death of a contract insured. These documents shall be maintained on the premises of the establishment and shall be maintained in an auditable format.

Source: *Miss. Code Ann. § 75-63-67* (Rev. 2009).

*Rule 3.7 Conversion of Funding Type.* No contract that is funded by trust may be converted to an insurance policy funded contract without the prior approval of the Division.

Source: *Miss. Code Ann. § 75-63-67* (Rev. 2009).

## **Part 12 Chapter 4: Examination and Enforcement.**

*Rule 4.1 Trustee.* The preneed trustee must be a financial institution unrelated to the preneed provider, the seller, or a member, officer, or director of the contract provider if the contract provider is a corporation or LLC.

Source: *Miss. Code Ann. § 75-63-67* (Rev. 2009).

*Rule 4.2 Pre-Installation of Vaults.* No grave space may be opened for the sole purpose of installing a vault. Any vault purchased must be installed in the grave space at the time human remains are interred.

Source: *Miss. Code Ann. § 75-63-67* (Rev. 2009).

*Rule 4.3 Trusting requirements.* Not later than the fifth day of the following month from when funds are received, the contract seller shall place in a trust account in a financial institution as defined by this article at least eighty-five (85%) of the funds received for funeral services and merchandise.

Source: *Miss. Code Ann. § 75-63-59(3) and 67* (Rev. 2009).

## **Part 12 Chapter 5: Administrative Hearing Procedures.**

*Rule 5.1 Hearing Procedure Variance.* The Secretary of State may grant variances from these Rules if it is determined that application of the Rules would, in the particular case, be

unnecessarily burdensome, and such variance would not be inconsistent with the public policy purposes of the Act.

Source: *Miss. Code Ann.* § 75-63-67 (Rev. 2009).

*Rule 5.2 Severability.* If any one or more of these Rules, or any part of any Rule is found to be invalid by any court of competent jurisdiction, such finding shall not affect the validity of any other Rule or the remaining content of any part of a Rule that is not found to be invalid. Further, if any one or more of these Rules, or any part of any Rule, is superseded, amended, or contradicted by subsequent legislation, such amendment or change by subsequent legislation in no way invalidates any other part of a Rule or any other Rules not addressed or impacted by subsequent legislative action.

Source: *Miss. Code Ann.* § 75-63-67 (Rev. 2009).

*Rule 5.3 Oral opinions.* Oral or informal opinions by the staff of the Division as to the applicability of the Act and oral or informal representations by the staff of the Division concerning the status of filings made with the Division are not binding upon the Division. Requestors can obtain a written declaratory opinion from the Division by following the procedures described in the Secretary of State's Rule on Declaratory Opinions.

Source: *Miss. Code Ann.* § 75-63-67 (Rev. 2009).

*Rule 5.4 Administrative Hearing Procedures.*

- A. Written notice shall be provided to any preneed establishment or other person against whom the Attorney General or Secretary of State intends to institute an administrative hearing pursuant to the Act or these Rules. At least twenty (20) calendar days notice shall be given to the establishment or other person prior to the hearing unless the establishment or other person notified consents or the Division has authority to do so under applicable statute. Notice is effective on date of issue.
- B. Such notice shall be by certified mail, return receipt requested, and shall set forth the date, time and place for the administrative hearing and shall also designate a Hearing Officer.
- C. Any Party wishing to appear or introduce evidence or other testimony at the administrative hearing shall, no later than four (4) business days prior to the hearing date, file with the Hearing Officer and the opposing party a list of witnesses which it intends to call to testify or to otherwise give evidence. The list shall contain for each witness:
  - 1) Name;
  - 2) Residential and business address, if known;
  - 3) Residential and business telephone number, if known;
  - 4) A brief summary statement indicating the substance of the person's expected testimony.
- D. Upon request by any Party, any documents, papers, or tangible things to be introduced by any Party at the hearing shall be made available for inspection and copying by the requesting Party no later than four (4) business days prior to the hearing date.



- E. The Hearing Officer, or his or her designee, shall have the authority to administer oaths and affirmations. Each Party may be represented by an attorney or other authorized representative. The Hearing Officer may clear the hearing room of witnesses not under examination.
- F. The Hearing Officer shall have the authority to maintain the decorum of the hearing and shall take reasonable steps to do so when necessary, including clearing the hearing room of any person who is disruptive.
- G. The hearing shall be informal and technical rules of evidence shall be relaxed. All witnesses who appear and testify under oath shall be subject to cross-examination.
- H. The Hearing Officer shall have the authority to admit into the record any evidence which, in his or her judgment, has a reasonable degree of probative value and trustworthiness. The Hearing Officer shall have the authority to exclude evidence which is irrelevant, immaterial, lacking in probative value, untrustworthy or unduly cumulative.
- I. Documents received into evidence by the Hearing Officer shall be marked by him or her, or under his or her direction, entered into evidence and made a part of the record in the cause.
- J. Rebuttal and surrebuttal evidence may be heard at the discretion of the Hearing Officer.
- K. At the hearing, the Attorney General or the Secretary of State or the Division shall be the first to present evidence.
- L. The Attorney General or the Secretary of State or the Division shall have the burden of proving its allegations by a preponderance of the evidence. Fraud must be proven by clear and convincing evidence.
- M. A record of testimony at the hearing shall be made.
- N. A true and correct copy of said stenographic recording shall be made available to any Party requesting it, provided such Party agrees to pay the expense of such copy.
- O. After all evidence is heard or received and the hearing is completed, the Hearing Officer shall, within a reasonable time thereafter, prepare and file written findings of fact and conclusions of law. The Secretary of State shall review the Hearing Officer's findings and conclusions and all exhibits entered into evidence, and, if desired, order a transcript of the hearing. Thereupon, the Secretary may issue a Final Order adopting and accepting the Hearing Officer's findings of fact and conclusions of law; reject the findings in whole or in part and issue new findings of fact and conclusions of law with a Final Order; or remand the case to the Hearing Officer for additional findings or clarification of key issues. A case is not concluded until issuance of a Final Order by the Secretary of State. All findings and final orders shall be sent via certified mail, return receipt requested, to all Parties who appeared at the administrative hearing or their attorney or authorized representative.
- P. Continuances requested by any Party will be granted within the discretion of the Hearing Officer only for good cause shown.
- Q. In computing any period of time prescribed or allowed under these Rules, the Hearing Officer and all Parties shall be guided by the Mississippi Rules of Civil Procedure.

Source: *Miss. Code Ann.* § 75-63-67 (Rev. 2009).

Title 01, Part III of the Miss. Admin. Code Articles 1 – 17: Mississippi Pre-need Cemetery and Funeral Registration Act Regulations. REPEAL

## **~~Mississippi Pre-Need Cemetery and Funeral Registration Act Regulations~~**

### **~~Article 1: Definitions~~**

- ~~100. Pre-Need Cemetery and Funeral Registration Act of 2001: As used herein, all references to “the Act” or “Act” shall mean the “Pre-Need Cemetery and Funeral Registration Act of 2001; and any amendments thereto.~~
- ~~101. Secretary of State: As used herein, all references to “the Secretary of State” or “Secretary of State” shall mean the Mississippi Secretary of State.~~
- ~~103. Business Regulation and Enforcement Division: As used herein, all reference to “the Division” or “Division” shall mean the Business Regulation and Enforcement Division of the Mississippi Secretary of State.~~
- ~~105. Address: The mailing address of the Mississippi Secretary of State, Business Regulation and Enforcement Division is Post Office Box 136, Jackson, Mississippi 39205. The physical address of the Mississippi Secretary of State, Business Regulation and Enforcement Division is 202 North Congress Street, Suite 601, Jackson, Mississippi 39205.~~

### **~~Article 3: Establishments~~**

- ~~300. Registration: Any establishment or organization which engages in the business of selling pre-need merchandise and/or services shall register with the Secretary of State.~~
- ~~301. Registration Form: Any establishment or organization which engages in the business of selling pre-need merchandise and/or services shall register with the Secretary of State by filing a completed Pre-Need Establishment Registration Form with the Division and shall pay a registration fee of two hundred fifty dollars (\$250.00).~~
- ~~303. Certification: All registration forms must be certified as to the truthfulness of the information contained therein.~~
- ~~305. Registration Certificate: An Establishment shall not be considered registered under the Act until the Establishment receives a certificate from the Secretary of State stating that it has satisfied the registration requirements of the Act and these Regulations.~~
- ~~307. Termination of Agents: Establishments shall notify the Secretary of State in writing within thirty (30) days after an agent has ceased employment with that establishment.~~

## **Article 5: ~~Agents~~**

500. ~~Registration: Any person who engages in the business of selling pre-need contracts shall register with the Secretary of State.~~
501. ~~Registration Form: Any person who engages in the business of selling pre-need contracts shall register with the Secretary of State by filing a completed Pre-Need Agent Registration Form~~
503. ~~Certification: All registration forms must be certified as to the truthfulness of the information contained therein.~~
505. ~~Registration Certificate: An Agent shall not be considered registered under the Act until the Agent receives a certificate from the Secretary of State stating that he has satisfied the registration requirements of the Act and these Regulations.~~

## **Article 7: ~~Annual Reports~~**

701. ~~Annual Reports: Every registered pre-need establishment shall annually submit a written report to the Secretary of State of its pre-need contract sales and performance of such contracts. This report shall be filed with the Secretary of State on or before March 31 of each year for the calendar year ending preceding December 31 or within ninety (90) days of the end of the establishment's fiscal year.~~
703. ~~Annual Report Form: Annual reports shall be submitted to the Secretary of State on the Pre-Need Establishment Registration Form and marked in the space designated "Annual Report".~~
705. ~~Certification: All annual reports must be certified as to the truthfulness of the contents.~~
707. ~~Date: The establishment must elect at the time of registration whether to file its annual report within ninety (90) days from its calendar year or fiscal year end.~~

## **Article 9: ~~Determination of Filing Dates~~**

901. ~~Filing Dates: Any filing required by these Regulations or the Act to be filed with the Secretary of State is considered filed when the appropriate forms and filing fee and all other documents required by these Regulations and the Act are received by the Division.~~
903. ~~Deficient Filings:~~

- ~~(1) Any Filing made pursuant to the Act or these Regulations may be deemed deficient if any of the following exist:~~
- ~~(a) The application is not on the proper form; or,~~
  - ~~(b) The application is not in compliance with the Act or the Regulations promulgated thereunder.~~
- ~~(2) When a registration application is found to be deficient, the Division may send a deficiency letter stating the grounds for noncompliance. If following the transmission of a deficiency letter, no communication is received by the Division for a period of thirty (30) days, the application will be deemed abandoned and returned to the applicant.~~

#### **Article 11: — Books and Records**

- ~~1100. Retention of Documents: The contract provider or its successor shall maintain a copy of all pre-need contracts entered into by the contract provider for a period of the lifetime of each contract and for two (2) years after the death of a contract insured. These documents shall be maintained on the premises of the contract provider.~~
- ~~1101. Format: All documents required to be retained by pre-need establishments as specified in the Act and these Regulations shall be maintained in an auditable format.~~

#### **Article 13: — Contracts**

- ~~1301. Registration: All pre-need contracts sold shall be evidenced in writing on forms registered with the Secretary of State. Said contracts must be accompanied by all documents required by the Act to be provided to a purchaser.~~
- ~~1303. Approval or Rejection of Contracts: All pre-need contracts filed with the Secretary of State shall be reviewed in order to ensure compliance with the Act. If the contract meets all of the requirements of the Act then it shall be marked "Accepted" and a copy shall be returned to the pre-need establishment. If the contract fails to meet the requirements of the Act, it shall be marked "Rejected" and it shall be returned to the pre-need establishment along with the reasons for rejection~~
- ~~1305. Complaints: All pre-need contracts shall contain the following clause: "Consumer complaints may be filed with the Secretary of State by calling 1-888-236-6167 or in writing at Post Office Box 136, Jackson, MS 39205-0136."~~
- ~~1307. Certain Terms in Bold Type: The following terms of the contract shall be in bold face type:~~
- ~~\_\_\_\_\_ (a) Total cost of all merchandise covered by contract~~
  - ~~\_\_\_\_\_ (b) Total cost of all services covered by contract~~
  - ~~\_\_\_\_\_ (c) Total cost for all cash advance items covered by contract~~
  - ~~\_\_\_\_\_ (d) Merchandise guaranteed as to price~~
  - ~~\_\_\_\_\_ (e) Services guaranteed as to price~~
  - ~~\_\_\_\_\_ (f) The amount of any interest charged~~

- ~~\_\_\_\_\_ (g) Whether it is a standard contract or inflation proof contract~~
- ~~\_\_\_\_\_ (h) All exclusions and limitations including, but not limited to the following:~~
  - ~~\_\_\_\_\_ (i) The consumer is not entitled to any interest earned on funds deposited in trust;~~
  - ~~\_\_\_\_\_ (ii) Whether or not there is a guarantee as to future price increases; and,~~
  - ~~\_\_\_\_\_ (iii) Reasonable annual trust fees and state and federal income taxes may be withheld from the earnings of the trust.~~

~~1309. Paper Size: All contracts filed with the Secretary of State shall be on 8 1/2 by 11 inch paper.~~

#### **~~Article 15: Changes in Information~~**

~~1501. Change in Establishment or Agent Information: Any changes in the information provided by the establishment or agent in a registration shall be supplied to the Secretary of State in writing by completing a Pre-Need Establishment Registration Form or Pre-Need Agent Registration Form and marking the appropriate form in the box indicated for "Amendments." Notice shall be supplied to the Secretary of State within thirty (30) days after said change has occurred.~~

~~1502. Change in Trustee or Trust Institution: In the event of any change in the investments of the assets of a contract funded by trust or a change in the trustee or trust institution, the Secretary of State shall be notified in writing no less than thirty (30) days after the time such change occurs.~~

#### **~~Article 17: Administrative Hearing Procedures [Adopted 12/30/02]~~**

~~The following procedures governing administrative hearings shall apply to hearings granted by the statutory provisions of the Mississippi Pre-Need Cemetery and Funeral Registration Act and any Rules promulgated thereunder.~~

~~1701. Definitions: **Party** shall mean the registrant, applicant, Secretary of State Business Regulation and Enforcement Division ("Division") or other governmental agency or any other person who requests an administrative hearing on a particular matter.~~

~~1703. Timely Request for a Hearing—Contents and Service of Temporary or Summary Order or Notice:~~

- ~~A. A Requesting Party must file a written Request for Hearing with the Secretary of State within thirty (30) days after service of any temporary or summary order or notice entered by the Division;~~
- ~~B. Such temporary or summary order or notice entered by the Division shall clearly set out such thirty (30) days period of time;~~

- ~~C. A true and correct copy of such temporary or summary order or notice shall be served promptly after its execution on the party or parties against whom it is entered or on its legal representative.~~

~~1705. Assignment of Hearing Officer—Setting of Hearing:~~

- ~~A. When a hearing is requested, the Secretary of State shall, after receipt of the Request for Hearing, designate a Hearing Officer and set a date, time, and place for the hearing;~~  
~~B. A Nothice of Hearing shall be sent certified mail, return receipt requested, to each Requesting Party.~~

~~1707. Witnesses: Each party shall, no later than fourteen (14) days prior to the hearing date, file with the Hearing Officer a list of witnesses such party may call to testify at the hearing. The list shall contain for each witness:~~

- ~~A. Name;~~  
~~B. Current residential and business address, if known;~~  
~~C. Current residential and business telephone number, if known;~~  
~~D. A statement indicating whether such person is to testify in person or by affidavit.~~

~~A true and correct copy of such list shall be forwarded by each party to all other parties no later than fourteen (14) days prior to the hearing date.~~

~~1709. Documents:~~

- ~~A. Upon request by the Requesting Party, the Division shall make available for inspection and copying any documents, papers, and tangible things it may introduce at the hearing. This shall include written reports prepared by any expert retained by the Division to testify at the hearing;~~  
~~B. At the same time the Division makes such documents, papers, tangible things, or expert reports available for inspection and copying, the Requesting Party shall also make any such documents, papers, tangible things, or expert reports in its possession available for inspection and copying by the Division.~~

~~1711. Failure to Appear at Hearing:~~

- ~~A. If the Requesting Party, without good cause, fails to appear at the hearing, such failure may be considered as a withdrawal of the Request for Hearing and the Hearing Officer may dismiss the Request for Hearing and enter an appropriate Final Order;~~  
~~B. If the Division, without good cause, fails to appear at the hearing, such failure may be considered as a withdrawal of the temporary or summary order or notice, and the Hearing Officer may declare null and void the temporary or summary order or notice and enter an appropriate Final Order.~~

~~1713. Conduct of Hearing:~~

- ~~A. The Hearing Officer shall have the authority to administer oaths and affirmations;~~
- ~~B. Each Party may be represented by an attorney or other authorized representative;~~
- ~~C. The Hearing Officer may clear the hearing room of witnesses not under examination. The Requesting Party may remain in the hearing room throughout the hearing;~~
- ~~D. The Hearing Officer shall have the authority to maintain the decorum of the hearing and shall take reasonable steps to do so when necessary, including clearing the hearing room of any person who is disruptive.~~

~~1715. Evidence:~~

- ~~A. Hearings shall be informal and technical rules of evidence and procedure shall be relaxed;~~
- ~~B. All witnesses who appear and testify under oath shall be subject to cross examination. A witness who does not appear may testify by affidavit provided the party presenting the particular witness' affidavit has complied with the requirements of Rule 1707 thereby affording the opposing party an opportunity to contact said witness and obtain an affidavit on its own behalf;~~
- ~~C. The Hearing Officer shall have the authority to admit into the record any evidence which, in his or her judgment, has a reasonable degree of probative value and trustworthiness. The Hearing Officer shall have the authority to exclude evidence which is irrelevant, immaterial, lacking in probative value, untrustworthy, or unduly cumulative;~~
- ~~D. Documents received into evidence by the Hearing Officer shall be marked by him or her, or under his or her direction, and filed for the record of the appeal;~~
- ~~E. Rebuttal and surrebuttal evidence may be heard at the discretion of the Hearing Officer;~~
- ~~F. Arguments summarizing the evidence and the law may be heard at the discretion of the Hearing Officer.~~
- ~~G. Acceptance or deposit of tendered filing fees by the Division shall not be deemed an admission by the Division of the validity or invalidity of any of the claims which are the subject of the hearing, including but not limited to whether the amount of such fees was sufficient.~~

~~1717. Order of Proof — Burden of Proof~~

- ~~A. At the hearing, the Division shall be the first to present evidence. The Requesting Party shall follow the Division in presenting evidence on its behalf;~~
- ~~B. Unless otherwise specified by law, the standard of proof at the hearing shall be by a preponderance of the evidence.~~

~~1719. Presentation and Transcription of Record of Hearing:~~

- ~~A. A record of testimony at the hearing may be made by non-stenographic means.~~
- ~~B. It shall be the responsibility of any party desiring to preserve by stenographic means a record of testimony given at the hearing to:~~

- ~~1. Arrange, on his or her own initiative, for a certified court reporter to make a stenographic recording of the hearing;~~
  - ~~2. Pay all fees and expenses for such transcription directly to the court reporter.~~
- ~~C. A true and correct copy of said stenographic recording shall be made available to any other party requesting same, provided such party agrees to pay the expense of such copy.~~

~~1721. Order to be Filed Upon Completion of Hearing: After all evidence is heard or received and the hearing is completed, the Hearing Officer shall, within a reasonable time thereafter, prepare and file written findings of fact and conclusions of law and a Final Order based thereon shall be issued. A copy of such findings of fact and conclusions of law and a Final Order based thereon shall be issued. A copy of such decision and order shall be sent promptly by the Division, via certified mail, return receipt requested, to the Requesting Party, its attorney, or authorized representative.~~

~~1723. Compliance with Order: All parties shall promptly comply with all orders of the Hearing Officer.~~

~~1725. Judicial Review: Any party aggrieved by a final written decision and order of the Hearing Officer may appeal such order in the manner provided by the applicable provisions of the Mississippi Pre-Need Funeral and Cemetery Registration Act;~~

~~1727. Continuances: Continuances requested by any party shall be granted within the discretion of the Hearing Officer only for good cause shown.~~

~~1729. Computation of Time: In computing any period of time prescribed or allowed under these rules, the Hearing Officer shall be guided by the Mississippi Rules of Civil Procedure.~~

~~1731. Amendment of Rules—Validity of Rules—Enforcement of Rules: The Secretary of State may, from time to time, amend these rules or promulgate new rules. If any one or more of these rules is found to be invalid by any court of competent jurisdiction, such finding shall not affect the validity of any other of these rules. If any one or more of these rules is found to be invalid by any court of competent jurisdiction, such finding shall not affect the validity of any other of these rules.~~